

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY JULIET NG,
Plaintiff,
v.

US BANK TRUSTEE, NA, et al.,
Defendants.

Case No. [15-cv-04998-PSG](#)

**ORDER DENYING APPLICATION FOR
TEMPORARY RESTRAINING ORDER**

(Re: Docket No. 55)

The court has before it Plaintiff Mary Juliet Ng's application for a temporary restraining order to prevent Defendants U.S. Bank N.A. and Select Portfolio Servicing Inc. from proceeding with a foreclosure of Ng's home.¹ Ng admits that she refinanced the home in 2007 but has made no payments on the loan since 2010.² Ng nevertheless claims that Defendants cannot initiate a foreclosure because they have no interest in the deed of trust and because certain recorded assignments of Ng's deed of trust were invalid.³ Because a party seeking a temporary restraining order must establish a likelihood of success on the merits,⁴ the court examines whether Ng has made that showing.

¹ See Docket No. 55.

² See *id.* at 16.

³ See Docket No. 45 at ¶¶ 8-19.

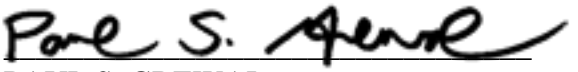
⁴ See *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *DISH Network Corp. v. FCC*, 653 F.3d 771, 776-77 (9th Cir. 2011). These cases involve preliminary injunctions, but the standard for temporary restraining orders is the same. See *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001); *Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995).

Although Ng's complaint alleges eleven causes of action,⁵ her application focuses on just one: wrongful foreclosure.⁶ After reviewing the papers and considering the parties' arguments at today's hearing,⁷ the court cannot say that Ng is likely to succeed on the merits of her wrongful foreclosure claim. The reason is that, under California law, a plaintiff may not bring a preemptive action for wrongful foreclosure before the sale takes place.⁸ This is precisely what Ng has done.

The application for a temporary restraining order is DENIED.

SO ORDERED.

Dated: April 22, 2016


 PAUL S. GREWAL
 United States Magistrate Judge

⁵ See *id.* at ¶¶ 24-120.

⁶ In her application, Ng does reference her other claims. But she offers nothing to meet her burden of establishing that she is likely to succeed on any of these claims.

⁷ See Docket No. 62.

⁸ See, e.g., *Saterback v. JPMorgan Chase Bank, N.A.*, 199 Cal. Rptr. 3d 790, 795-96 (Ct. App. 2016); *Rosberg v. Bank of America, N.A.*, 219 Cal. App. 4th 1481, 1493 (2013); *Lawrence v. Wells Fargo Bank, N.A.*, Case No. 14-cv-01272, 2014 WL 2705425, at *7 (N.D. Cal. June 13, 2014).